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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
In re:	:
	:
TRADE AND COMMERCE BANK (IN	:
LIQUIDATION)	:
	:
Debtor,	:
	:
-----X	
RICHARD FOGERTY, as Joint Official Liquidator of	:
Trade and Commerce Bank,	:
	:
Plaintiff,	:
	:
- against -	:
	:
KESTEN DEVELOPMENT CORP.,	:
	:
Defendant.	:
-----X	

DECLARATION OF EMILY A. STUBBS

Emily A. Stubbs, hereby declares the following under penalties of perjury:

1. I am an attorney duly admitted to practice before the United States District Court for the Southern District of New York. I make this declaration on behalf of The Barry

Fischer Law Firm LLC (“Fischer Law Firm”) and Friedman Kaplan Seiler & Adelman LLP (“Friedman Kaplan”) (collectively, the “Objectors”), in support of their Objection to Plaintiff’s Motion for a Temporary Restraining Order and Preliminary Injunction and Petition to Enforce Attorney’s Lien filed herewith (the “Objection”).

2. Attached hereto as Exhibit 1 is a true and correct copy of the July 6, 2004 order and opinion of Judge John W. Bissell issued in *United States v. \$8,221,877.16*, Civil Action No. 00 - 2667 (D.N.J.) (the “Forfeiture Proceeding”), dismissing the government’s Amended Complaint with prejudice and directing the government to return the Seized Funds to Kesten Development Corp. and Turist-Câmbio Viagens e Turismo Ltda. (“Turist-Câmbio”), and denying the government’s cross-motion to strike the Claimants’ claim.

3. Attached hereto as Exhibit 2 is a true and correct copy of the March 7, 2005 opinion of Judge John W. Bissell issued in *United States of America v. Antonio Pires de Almeida, Turist-Cambio Viagens e Turismo Ltda, Kesten Development Corp., and Roseli Cioffi*, Civil Action No. 04-115 (D.N.J.) (the “1956(b) Action”), granting the defendants’ motion to dismiss the complaint with prejudice.

4. Attached hereto as Exhibit 3 is a true and correct copy of the transcript of proceedings held on December 2, 2004 before Judge Bissell in the Forfeiture Proceeding, in which Judge Bissell held that Claimants had proper standing to claim the Seized Funds, and denied the government’s Rule 60(b) motion.

5. Attached hereto as Exhibit 4 is a true and correct copy of the order of the Court of Appeals for the Third Circuit dated December 9, 2004, dismissing the government’s appeal of the July 6, 2004 Opinion and Order dismissing the Amended Complaint in the Forfeiture Proceeding.

6. Attached hereto as Exhibit 5 is a true and correct copy of the order of the Court of Appeals for the Third Circuit dated June 30, 2005 dismissing the government's appeal of the Court's order of December 2, 2004 denying relief under Rule 60(b) in the Forfeiture Proceeding.

7. Attached hereto as Exhibit 6 is a true and correct copy of the Judge Bissell's Order dated August 10, 2005, denying the government's second Rule 60(b) motion in the Forfeiture Proceeding.

8. Attached hereto as Exhibit 7 is a true and correct copy of the government's notice dated June 7, 2006 withdrawing its appeal of Judge Bissell's denial of its second Rule 60(b) motion in the Forfeiture Proceeding.

9. Attached hereto as Exhibit 8 is a true and correct copy of the order of the Court of Appeals for the Third Circuit dated July 12, 2006, dismissing the government's appeal of Judge Bissell's denial of its second Rule 60(b) motion in the Forfeiture Proceeding.

10. Attached hereto as Exhibit 9 is a true and correct copy of the order of Chief Judge Royce C. Lamberth of the U.S. District Court for the District of Columbia in *United States of America, for and on behalf of the Federal Republic of Brazil v. Antonio Pires de Almeida, et al.*, Misc. No. 05-40 (D.D.C.) (Under Seal) dated January 26, 2005, granting the government's *ex parte* motion for a restraining order of \$8,216,814.00 and accrued interest, *i.e.*, the Seized Funds.

11. Attached hereto as Exhibit 10 is a true and correct copy of the order of Chief Judge Royce C. Lamberth of the U.S. District Court for the District of Columbia in *United States of America, for and on behalf of the Federal Republic of Brazil v. Antonio Pires de*

Almeida, dated September 22, 2010, granting the government's motion to vacate the restraining order and vacating that restraint.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 29, 2010 at New York, New York.

/s/ Emily A. Stubbs

Emily A. Stubbs